

REMARKS**King Teaches Away from the Instant Invention.**

King is not an appropriate prior art reference as it teaches away from the instant invention. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.* 721 F2d. 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). MPEP 2141.02

King does not teach a safety means for visually accessing articles disposed on the storage surface from outside of the desk. Since King teaches a desk that is enclosed and securable with covers and locks, it teaches away from giving those outside the desk means for observing the contents therein. The instant invention employs a safety means for visually accessing student articles disposed on an interior storage surface to allow a teacher from outside of the student work station to readily observe and determine whether the student articles on the inside storage surface pose a threat or danger. Clearly, King teaches away from a student work station with a safety means comprising a transparent peripheral wall.

35 U.S.C. §103 Rejections

Claims 1-13 have been rejected under 35 U.S.C. 103(a) as being unpatentable over King (U.S. Patent No. 189,749) in view of Woy (U.S. Patent No. 5,865,516).

Claim 1 has been amended to distinguish it from the prior art cited by the Examiner. Claims 1, 11 and 12 have been amended to eliminate the reference to an elevated "desk" which may have created some ambiguity as to the precise scope of this invention. Claim 1, as amended, now provides that the student work station of the present invention comprises a work surface for student work, a storage surface disposed beneath the work surface, a safety means for visually accessing student

articles disposed on the storage surface, and a means for supporting the work surface, the storage surface, and the safety means above a floor. The safety means comprises a transparent peripheral wall disposed between the respective surfaces.

Moreover, amended claim 1 requires that the student work station allow a student seated on a chair at the work station to work on the work surface, store a variety of student articles on the storage surface, and position his or her legs under the storage surface, while the articles on the storage surface can be safely noted by a teacher passing by outside of the student work station.

As noted above, the primary reference King teaches away for the instant invention and fails to teach the structure of the present invention substantially as now claimed. The Woy patent for a glass enclosed display case does not cure the deficiencies of King. The Examiner cannot establish obviousness through references describing various aspects of the applicant's invention unless the Examiner also provides evidence of motivating force to impel persons skilled in the art to do what applicant has done. *Ex parte Levengood* (Bd. Patent Board Appeals Interferences 1993, 28 U.S.P.Q 2d 1300. Here, there is no motivating force.

In the case of *R.E. Kaslow*, 707 F.2d 1366 (1983, Fed. Cir.), the court said that a §103 inquiry focuses not on the differences between the claimed subject matter and the prior art, but rather on the subject matter as a whole. It should first be noted that one skilled in the art of work station design would have no reason to look to transparent display cases without having first dissected the present invention and then finding its elements elsewhere. Relying on the present invention in this way is employing an impermissible hindsight approach.

Approaches to obviousness determinations which focus merely on identifying and tabulating 'missing elements' in hindsight retrospect 'imbue one of ordinary skill in the art with

knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, . . . and, . . . fall victim to the insidious effect of hindsight syndrome where that which only the inventor taught is used against its teacher. *W.L. Gore & Assoc. v. Garlock*, 721 F.2d 1540, 1553, 220 U.S.P.Q. 303 (Fed. Cir. 1983).

Student work stations have been made for decades without resort to a transparent peripheral wall or a transparent work surface. The prior art goals of King's desk design included providing a work surface and a private storage area. With respect to storage, the objective has traditionally been privacy, not display. Only with the benefit of the present invention's elements, which achieve the inventor's safety objective, does a transparent peripheral wall and a transparent work surface become apparent. Without this inventor's safety motivated objective, there is nothing in King to suggest that it be joined with Woy. Woy do not teach a solution to a safety objective as is demanded by the instant invention.

Although such criteria are of distinctly secondary importance, satisfaction of a long-felt need is evidence of non-obviousness. *Maclaren v. B-I-W Group, Inc.*, 535 F.2d 1367 (1976 C.A.2 N.Y.). For the first time in decades, a new safety objective has generated a new, otherwise unapparent use of a transparent peripheral wall and work surface to achieve a safety motivated objective.

Additionally, claim 5 requires a transparent work surface for student work. Although Woy teaches a transparent display surface, there is no teaching or suggestion in Woy that it is a work surface upon which work is done. In Woy, only the lower display surface is worked.

Moreover, Claims 2-13 are dependent on amended claim 1 and entitled to patentability on the same basis as amended claim 1. For the above reasons, claim 1-13 should be allowed.

Reconsideration of Claims 1-13 under 35 U.S.C.103(a) as being unpatentable over King in

view of Woy is requested in light of the amendments made and the arguments presented herein and applicant respectfully requests that Claims 1-13 be allowed.

Claims 14-20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over King in view of Woy, as applied to the claims above, and further in view of Lamm (U.S. Des. 143,494). Independent claims 14 and 19, like amended claim 1, have been amended to distinguish them from the prior art cited by the Examiner. Claims 14, 19 and 20 have further been amended to eliminate the reference to an elevated "desk" which may have created some ambiguity as to the precise scope of this invention. Independent claims 14 and 19, as amended, now provide that the student work station of the present invention comprises a work surface for student work, a storage surface disposed beneath the work surface, and a safety means for visually accessing student articles disposed on the storage surface. The safety means comprises a transparent peripheral wall disposed between the respective surfaces. Moreover, these amended claims requires that the student work station allow a student seated on a chair or wheelchair at the work station to work on the work surface, store a variety of student articles on the storage surface, and position his or her legs under the storage surface, while the articles on the storage surface can be safely noted by a teacher passing by outside of the student work station.

As noted above, the primary reference King teaches away for the instant invention and fails to teach the structure of the present invention even if joined with Woy when there is no motivating force to do so. The patent to Lamm teaches the use of providing a particular number of supports to be old. Lamm, however, teaches away from the other cited prior art in that it has a closed circular desk and its use of three legs is completely arbitrary. The Examiner cannot establish obviousness through references describing various aspects of the applicant's invention unless the Examiner also

provides evidence of motivating force to impel persons skilled in the art to do what applicant has done. *Ex parte Levengood, supra*. Here again, there is no motivating force. Relying on the present invention in this way is employing an impermissible hindsight approach.

Student work stations have been made for decades without resort to a transparent peripheral wall or a transparent work surface. The prior art goals of work station design included providing a work surface and a private storage area. With respect to storage, the objective has been privacy, not display. Only with the benefit of the present invention's elements, which achieve the inventor's safety objective, does a transparent peripheral wall and a transparent work surface become apparent. Without this inventor's safety motivated objective, there is nothing in King to suggest that it be joined with Woy and Lamm. Woy and Lamm do not teach a solution to a safety objective that is required by the instant invention.

The current invention of a safe student work station satisfies a long-felt need which is evidence of non-obviousness. *Maclaren v. B-I-W Group, Inc., supra*. For the first time in decades, a new safety objective has generated a new safety feature using a transparent peripheral wall and work surface to allow teachers to detect the storage of weapons or other dangerous objects.

Additionally, claim 18 requires a transparent work surface for student work. Although Woy teaches a transparent display surface, there is no teaching or suggestion in Woy that it is a work surface upon which work is done. In Woy, only the lower display surface is worked.

Moreover, claims 14-20 are dependent on amended independent claims 14 and 19 and are entitled to patentability on the same basis as the amended base claims. For the above reasons, claim 14-20 should be allowed.

Reconsideration of Claims 14-20 under 35 U.S.C.103(a) as being unpatentable over King

in view of Woy and Lamm is respectfully requested in light of the amendments made and the arguments presented herein.

Based on the foregoing, applicant requests that Claims 14-20 be allowed.



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CONCLUSION

For all the above reasons, applicant believes that all the claims presented in this application are allowable over the prior art, and any early allowance of the application is earnestly solicited. Formal drawings will be submitted upon notice of allowance.

Respectfully submitted,

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